

COMPLIMENTARY READING
AND SIGNING COPY FOR
DEPONENT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CONSTELLATION NEWENERGY: CIVIL ACTION
INC., :
Plaintiff, :
 :
 :
vs. :
 :
POWERWEB TECHNOLOGIES, :
INC., et al., :
Defendants. : NO. 02-CV-2733 (HB)

Philadelphia, Pennsylvania
Thursday, July 1, 2004

Pretrial Examination of CONSTANTINOS
GUS PAPPAS, CPA, taken pursuant to notice, at
the law offices of Wolf, Block, 1650 Arch
Street, 22nd Floor, on the above date,
beginning at approximately 10:05 a.m., before
Debra Ann Whitehead, a Court Reporter, an
Approved Reporter of the United States
District Court, and Notary Public.

V A R A L L O Incorporated
Litigation Support Services
1835 Market Street, Suite 600
1835 Market Street
Philadelphia, PA 19103
(215) 561-2220



1 Constantinos Gus Pappas, CPA

2 Q. You listened to what yourself had to
3 say?

4 A. Yes.

5 Q. Okay. Got you.

6 You say that lost profits are
7 derived from two sources, load management and
8 energy management.

9 What's load management in your
10 report?

11 A. Load management is where a customer
12 of the utility has a device attached to their
13 utility -- their electrical meter that talks
14 back to Omni-Link.

15 And using Omni-Link's services, they
16 can control their load or curtail or keep an
17 eye on what's being -- what their load
18 consumption is.

19 Q. And your calculation, if I
20 understand it, among other things, calculated
21 how many of those devices would have been sold
22 out to these customers of utilities; correct?

23 MS. GOODCHILD: Objection to
24 the form.

25 A. No, that's not correct.



1 Constantinos Gus Pappas, CPA

2 MS. GOODCHILD: Objection to
3 the form.

4 BY MR. WHITE:

5 Q. They don't have to drive out there?
6 You are going to have an office in Altoona?

7 MS. GOODCHILD: Objection to
8 the form.

9 A. You can hire a subcontractor in
10 Altoona.

11 Q. But you have to pay that guy; right?

12 A. Yes; but we are not going to pay for
13 him to fly out to Altoona.

14 Q. But that's another cost that you
15 have to have, right, that's not just an hourly
16 cost?

17 A. It could be, if you hire somebody
18 out in Altoona.

19 If you hire another contractor out
20 in California, it would be an hourly cost.

21 Q. What's energy management services?

22 A. Energy management services is
23 another service that Omni-Link provides where
24 a customer has access to an internet site, and
25 that customer can track his energy consumption



1 Constantinos Gus Pappas, CPA
2 to know there are certain rates, to know when
3 to not -- to know when to turn down their
4 energy consumption because they don't want to
5 pay certain energy rates at certain times,
6 things like that.

7 Q. Does Powerweb have any energy
8 management customers?

9 A. Currently?

10 Q. Yes.

11 A. Yes.

12 Q. How many?

13 A. Does that fall -- okay.

14 Approximately?

15 Q. Yes.

16 A. From what I understand, for one
17 contract we have somewhere between 800 and 900
18 customers, or Powerweb has somewhere between
19 800 and 900 customers on one contract.

20 And on another, they have -- I'm not
21 really sure, but I believe it is around 400
22 customers.

23 Q. How much do those customers pay per
24 month for the service?

25 A. They do not pay Powerweb directly;



1 Constantinos Gus Pappas, CPA
2 give you any feeling that, perhaps either one
3 of your reports must have been dramatically
4 incorrect --

5 MS. GOODCHILD: Objection to
6 the form.

7 Q. -- to have such a change?

8 MS. GOODCHILD: Objection to
9 the form.

10 A. Both my reports are reasonable in
11 the respect that, if you took it and looked at
12 it from NewEnergy's standpoint, of what we
13 could have done, what Powerweb could have
14 done, I believe it would be very reasonable
15 from that side.

16 If you look at it and take exactly
17 what Powerweb has gotten into with its energy
18 management and its penetration rates, with its
19 current contracts, and based on the fact that
20 you are talking about utilities that are
21 considerably larger than the ones they have
22 now, I would say, yes, again, it's -- would
23 have been reasonable to assume that they --
24 that these numbers could have come.

25 Q. The current penetration rates you



1 Constantinos Gus Pappas, CPA

2 Q. You are not an expert in the energy
3 industry, are you?

4 A. No.

5 Q. For any of those 13 contracts, or
6 customers listed there, have you seen a draft
7 contract between them and Powerweb?

8 MS. GOODCHILD: Objection.

9 Withdrawn.

10 A. No, not seen any contract, draft
11 contracts.

12 Q. Did you know whether any such
13 contracts existed?

14 A. Between who?

15 Q. Any of those 13 customers, or
16 potential customers, and Powerweb.

17 A. No.

18 Q. Why do you think that Powerweb would
19 have gotten, had a relationship with, any of
20 those 13 customers?

21 A. From discussions with Mr. Budike;
22 that out of those 13, that they were the
23 finalists in requests for bids for each of
24 those utilities.

25 Q. Did you see any documents or

